

1 LOBELLO LAW OFFICES LLC
2 Charles C. LoBello, NBN 5052
3 1785 East Sahara Ave., Ste. 157
4 Las Vegas, Nevada 89104
5 Telephone: (702) 733-2800
6 Facsimile: (702) 425-9883
7 clobello@lobellolawlv.com

8
9 GALLIAN WELKER & ASSOCIATES, L.C.
10 Michael I. Welker, NBN 7950
11 Nathan E. Lawrence, NBN 15060
12 730 Las Vegas Blvd. S., Ste. 104
13 Las Vegas, Nevada 89101
14 Telephone: (702) 892-3500
15 Facsimile: (702) 386-1946
16 welker@utahcase.com
17 nlawrence@vegascase.com
18 *Attorneys for Plaintiff*

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

25 SHARON STOLTZFUS, an individual;

26 Plaintiff,

27 v.

28 BROTHERHOOD MUTUAL INSURANCE
COMPANY, an Indiana insurance company;
BROTHERHOOD MUTUAL INSURANCE
SERVICES, LLC, an Indiana limited liability
company; and ROE BUSINESS ENTITIES I
to X, inclusive; collectively,

29 Defendants.

30 Case No.: 2:23-cv-01100-CDS-BNW

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STIPULATION AND ORDER TO
EXTEND THE DISCOVERY
DEADLINES

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(First Request)

37 Pursuant to Fed. R. Civ. P. (“FRCP”) 6(b)(1) and Local Rules IA 6-1, IA 6-2, and 26-3,
38 Plaintiff SHARON STOLTZFUS (“Plaintiff” or “Mrs. Stoltzfus”), by and through her attorneys
39 of the law firms of LOBELLO LAW OFFICES LLC and GALLIAN WELKER & ASSOCIATES, L.C.,
40 and Defendants BROTHERHOOD MUTUAL INSURANCE COMPANY and

1 BROTHERHOOD MUTUAL INSURANCE SERVICES, LLC (collectively, "Defendants"), by
 2 and through their counsel, CHRISTIAN, KRAVITZ, DICHTER, JOHNSON & SLUGA, LLC, hereby
 3 submit this Stipulation and Order to Extend the Discovery Deadlines.

4 This is the first stipulation to extend the discovery deadline, and this stipulation is
 5 presented to the Court in advance of the currently calendared close of discovery on October 14,
 6 2024. For the foregoing reasons and as is more fully explained below, the Parties stipulate to and
 7 respectfully request that this Court extend the discovery and associated deadlines in this matter.

8 **I. PROCEDURAL HISTORY**

9 1. On June 16, 2023, Plaintiff initiated this action by filing her Complaint under the
 10 Eighth Judicial District, Clark County, State of Nevada Case No. Case No. A-23-872524-C.

11 2. On July 14, 2023, Defendant filed a Notice of Removal [ECF No. 1] of Case No. A-
 12 23-872524-C from the Eighth Judicial District, Clark County, State Court of Nevada, to the United
 13 States District Court, for the District of Nevada, pursuant to 28 U.S.C. §§ 1332(d) and 1441.

14 3. On August 3, 2023, Plaintiff filed a Stipulated Discovery Plan and Scheduling
 15 Order [ECF No. 6], as later amended on August 11, 2023 [ECF No. 8] to which was granted on
 16 August 14, 2023 [ECF. No. 9], and the parties thereafter exchanged initial disclosures.

17 4. On February 5, 2024, Defendant filed a Stipulation and Order to Dismiss
 18 Defendant without Prejudice (Brotherhood Mutual Insurance Services, LLC [ECF. No. 14].

19 5. On April 25, 2024, Defendant submitted a Stipulated Protective Order [ECF No.
 20 17] pursuant to Federal Rule of Civil Procedure 26(c), following which the Court granted on April
 21 26, 2024 [ECF No. 18].

22 **II. LEGAL STANDARD**

23 Fed. R. Civ. P. Rule 6(b)(1) governs extensions of time and allows, in relevant part, that
 24 "[w]hen an act may or must be done within a specified time, the court may, for good cause, extend
 25 the time: (A) with or without motion or notice if the court acts, or if a request is made, before the
 26 original time or its extension expires." If additional time for any purpose is needed, the proper
 27 procedure is to present a request for extension of time before the time fixed has expired. *Canup*
 28 v. *Mississippi Val. Barge Line Co.*, 31 F.R.D. 282 (W.D. Pa. 1962). An extension of time may

1 always be sought and is usually granted on a showing of good cause if timely made under
 2 subdivision (b)(1) of [FRCP 6]. *Creedon v. Taubman*, 8 F.R.D. 268 (N.D. Ohio 1947). Also, a
 3 district court possesses the inherent power to control its own docket. *Hamilton Copper & Steel*
 4 *Corp. v. Primary Steel, Inc.*, 898 F.2d 1428, 1429 (9th Cir. 1990); *Olivia v. Sullivan*, 958 F.2d
 5 272, 273 (9th Cir. 1992).

6 LR IA 6-1 additionally requires that a motion to extend time must state the reasons for the
 7 extension requested and will not be granted if requested after the expiration of the specified period
 8 unless the movant demonstrates that the failure to file the motion before the deadline expired
 9 resulted because of excusable neglect. LR 26-3 requires that a motion to extend any date set by
 10 the discovery plan, scheduling order, or other order must, as well as satisfying the requirements
 11 of LR IA 6-1, demonstrate good cause for the extension, and such a motion filed after the
 12 expiration of the deadline will not be granted unless the movant demonstrates that the failure to
 13 act resulted from excusable neglect.

14 Finally, LR 26-3 lists four factors that are considered upon adjudication of a motion to
 15 extend a discovery deadline: (a) a statement specifying the discovery completed; (b) a specific
 16 description of the discovery that remains to be completed; (c) the reasons why the deadline was
 17 not satisfied or the remaining discovery was not completed within the time limits set by the
 18 discovery plan; and (d) a proposed schedule for completing all remaining discovery.

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20 III. ARGUMENT

21 **A. The Four Factors Contained Within LR 26-3 Are Satisfied, and the Parties**
 22 **Show Good Cause for Modifying the Scheduling Order.**

23 **1. Discovery Completed to Date:**

24 Pursuant to FRCP 26(a)(1), Plaintiff and Defendant exchanged their respective initial
 25 disclosures of persons likely to have discoverable information; documents, electronically stored
 26 information, and tangible things; computation of damages, and applicable insurance coverage.
 27 Plaintiff and Defendant have each supplemented their FRCP 26 disclosures as required over the
 28 course of the intervening months.

1 **2. Discovery Remaining:**

2 The deposition of the primary claims adjuster of the claim at issue is tentatively scheduled
 3 for September 25, 2024. The deposition of the adjuster's supervisor may be needed in early
 4 October, depending on the testimony of the adjuster. Expert disclosures and depositions will
 5 follow thereafter.

6 **3. Reasons Why Deadline Will Not Be Satisfied or Remaining Discovery**
 7 **Cannot Be Completed Within Current Time Limits:**

8 The parties are working cooperatively to complete discovery and schedule depositions of
 9 witnesses. The time to effectively and fully complete this process will exceed the currently
 10 allowed time inasmuch as multiple attempts to schedule and take the deposition of the primary
 11 adjuster since June have been unsuccessful due to scheduling conflicts. The deposition is needed
 12 for evaluation by the experts before final articulation of their opinions. Hence the parties propose
 13 a 60-day extension of the current discovery deadline and of the current expert disclosure deadline
 14 so that all pertinent information is available for the experts before their disclosures are due.

15 Both Plaintiff and Defendant continue to diligently prosecute and defend this action,
 16 respectively, and believe it is in the interests of justice that this stipulation is granted. Neither
 17 party will be prejudiced by this extension of the various deadlines. Indeed, the proposed amended
 18 schedule does not change the parties' trial readiness date.

19 **4. Proposed Schedule for Completing Remaining Discovery:**

Event	Current Deadlines	Proposed New Deadlines
Deadline to Disclose Experts	August 15, 2024	October 14, 2024
Deadline for Rebuttal Experts	September 14, 2024	November 15, 2024
Discovery Cutoff	October 14, 2024	December 13, 2024
Expert Discovery Cutoff	January 14, 2025	February 28, 2025
Dispositive Motion Deadline	February 13, 2025	March 14, 2025
Joint Pretrial Order Deadline	March 11, 2025	April 11, 2025 *

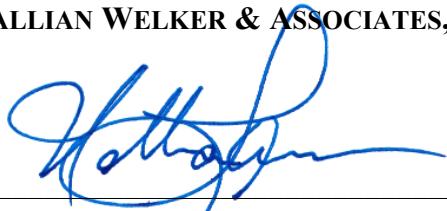
1 * In the event a dispositive motion is under review on April 11, 2025, the Joint Pre-Trial Order
2 shall be due no later than 30 days after entry of the Court's order ruling on same.

3 All other discovery dates not referenced herein, as well as the trial readiness date in May
4 2025, remain unchanged.

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6 **IT IS SO STIPULATED.**

7 DATED this 12th day of August 2024.

8 **GALLIAN WELKER & ASSOCIATES, L.C.**



9
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11 Michael I. Welker, NBN 7950
12 Nathan E. Lawrence, NBN 15060
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29 **IT IS SO ORDERED.**

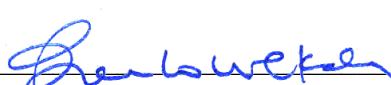
30 DATED: August 13, 2024

31 DATED this 12th day of August 2024.

32 **CHRISTIAN, KRAVITZ, DICHTER,
33 JOHNSON & SLUGA, LLC**

34 /s/ Scott B. Van Alfen

35 Tyler J. Watson, NBN 11735
36 Scott B. Van Alfen, NBN 5532
37 8985 So. Eastern Avenue, Suite 200
38 Las Vegas, Nevada 89123
39 Telephone: (702) 362-6666
40 Facsimile: (702) 362-2203
41 *Attorneys for Defendant*
42 **BROTHERHOOD MUTUAL
43 INSURANCE COMPANY and
44 BROTHERHOOD MUTUAL
45 INSURANCE SERVICES, LLC**

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48 Michael I. Welker
49 **UNITED STATES MAGISTRATE JUDGE**